

Panaji, 3rd May, 2018 (Vaisakha 13, 1940)

SERIES II No. 5

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 4 dated 26-04-2018 namely, Extraordinary dated 30-04-2018 from pages 97 to 98 regarding Notifications from Department of Finance.

GOVERNMENT OF GOA

Department of Finance

Revenue & Control Division

Order

No. 2/6/87-Fin(R&C)Part-III/845

Read: Order No. 2/6/87-Fin(R&C) Part-III dated 12-03-2018.

Consequent upon promotion of the below mentioned Excise Inspectors of the Office of Commissioner of Excise to the post of Superintendent of Excise on regular basis vide order referred to above, Government is pleased to post them on the places shown against their names, with immediate effect:

Sr. No.	Name of the officer	Place of posting
1.	Smt. Rashmi Ajgaonkar	M/s. Impala Distillery and Brewery Ltd., Assolda, Quepem-Goa.
2.	Shri Kapil Diukar	Superintendent of Excise-II (Head Office).
3.	Shri Mahesh Korgaonkar	Superintendent of Excise-III (Head Office).

By order and in the name of the Governor of Goa.

Sushama D. Kamat, Under Secretary, Finance (R&C).

Porvorim, 23rd April, 2018.

Order

No. 6/6/2015-Fin (R&C)/872

Read: Order No. 6/13/2007-Fin(R&C) dated 15-02-2018.

Consequent upon appointment of 7 Commercial Tax Officers (CTO) (Group 'B' Gazetted) vide the Order read in the preamble above, and upon their joining in the Office of Commissioner of Commercial Taxes, Panaji, the Government is pleased to post the following CTO's in the respective Ward shown against their name in column No. (4).

Sr. No.	Name of the C.T.O.	Date of joining	Posted as CTO at
1	2	3	4
1.	Ms. Sophia Lawrence Vaz	20-02-2018	Mapusa Ward.
2.	Mr. Naresh Kushta Gaude	01-03-2018	Margao Ward.
3.	Ms. Ankita Anil Kamat	01-03-2018	Panaji Ward.
4.	Mr. Rohan Arvind Loliyekar	27-02-2018	Margao Ward.
5.	Mr. Sirajuddin Gulamrasul Jamadar	01-03-2018	Vasco Ward.
6.	Ms. Sweta Shankar Gurav	20-02-2018	Head Office.
7.	Ms. Ashvita Ankush Goltekar	19-02-2018	Head Office.

The above CTO's shall take charge of their respective new postings after completion of their field training i.e. w.e.f. 02-05-2018. They shall draw their salary and allowances w.e.f. their respective dates of joining in the Office of CCT, as shown against their names in column No. (3) above.

Consequent upon the above postings and in public interest, the Government is pleased to effect

transfers of the Officers in the cadre of Commercial Tax Officers as under:-

Sr. No.	Name of the C.T.O.	Place of present posting	Transferred & posted as CTO at
1	2	3	4
1.	Mrs. Swati A. Dalvi	Panaji Ward	Ponda Ward.
2.	Mr. Gaurish V. Khedekar	Head Office	Panaji Ward.

Mrs. Swati A. Dalvi and Shri Gaurish V. Khedekar on transfer shall complete their handing over/ /taking over of charge on or before 03-05-2018 and report compliance to the Commissioner of Commercial Taxes, Panaji.

By order and in the name of the Governor of Goa.

Sushama D. Kamat, Under Secretary, Finance (R&C).

Porvorim, 26th April, 2018.

Department of Forest

Notification

No. 7-1-2009/FOR/087

The Government of Goa had constituted North and South Goa Forest Division Committee vide Notification No. 7-1-2009/FOR/439 dated 27-11-2012 for identification of Private Forests. As the work of identification of Private Forests is complete, the said Committees are hereby disband with immediate effect.

In view of the fact that the grievances are received from private citizens as well as NGO on the inclusion or non-inclusion of certain areas as private forest and in order to ensure a uniform approach to the issue, a new Committee is hereby constituted to review identified Private Forest areas by these two Committees and those identified by the earlier Sawant and Karapurkar Committees in pursuance to the Order of Hon'ble National Green Tribunal (WZ) dated 07-01-2016 in Application No. 18(THC)/2013(WZ) which have been finally surveyed.

The Terms of Reference of the Private Forests Review Committee shall be as under:-

- 1) The Committee shall review digitized maps of private forest areas which have been prepared using the Revenue Department/ /Directorate of Settlement and Land Records and overlaid on the satellite imageries of

the Forest Survey of India for assessment of Forest cover in Goa, conforming to the three criteria.

- 2) Technical expertise of Forest Survey of India (FSI), Bangalore could be taken in order to ascertain the composition and canopy density of the identified areas, if there is any dispute.
- 3) The Dy. Conservator of Forests of the concerned territorial divisions will then carry out ground verification in respect of such cases which are in doubt or having ambiguity in order to prepare final report on Private Forest areas in the State.
- 4) The Committee shall submit its report within period of 3 (three) months.

The Constitution of the Private Forests Review Committee shall be as follows:-

1. The Dy. Conservator of Forests, Working Plan Division, Ponda-Goa — Chairperson.
2. Director, Settlement and Land Records, Panaji-Goa or his/her nominee — Member.
3. Additional Collector of Revenue Department dealing with land records of North Goa District, Panaji-Goa — Member.
4. Additional Collector of Revenue Department dealing with land records of South Goa District, Margao-Goa — Member.
5. Asst. Conservator of Forest, Head Quarters of North Goa Division, Ponda-Goa — Member.
6. Asst. Conservator of Forest, Head Quarters of South Goa Division, Margao-Goa — Member.
7. Shri Sandeep Azrenkar, Environmentalist, Margao-Goa — Member.
8. Shri Shirang Jhamble, Savoi Verem, Goa — Member.
9. The Chief Forest Surveyor of Forest Department — Member Secretary.

This issues with the approval of the Government.

By order and in the name of the Governor of Goa.

Shaila G. Bhosle, Under Secretary (Forests).

Porvorim, 23rd April, 2018.

Department of Labour

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Notification

No. 28/3/2018-LAB/Part-I/283

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 26-03-2018 in reference No. IT/33/16 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shivanee S. Borkar, Under Secretary (Labour) (Link).

Porvorim, 25th April, 2018.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/33/16

Shri Sanjeeb Kumar Rout,
C/o. Mr. Fernando Rodrigues,
H. No. 110, Behind Vailankani
Chapel,
Sortant, Cortalim,
Goa 403 710

... Workman/Party I.

V/s

The Managing Director,
M/s FDC Limited,
L56 & L57, Phase II-D,
Verna Industrial Estate,
Verna, Salcete,
Goa 403 722

... Employer/Party II.

Workman/Party I represented by Ld. Adv. Shri Suhaas Naik.

Employer/Party II represented by Ld. Adv. Shri M. S. Bhandodkar.

AWARD

(Delivered on this the 26th day of the month of March of the year 2018)

By Order dated 22-07-2016, bearing No. 28/20/2016-LAB/547, the Government of Goa in exercise of powers conferred by Section 10 (1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

- (1) *Whether Shri Sanjeeb Kumar Rout, Facility Maintenance Supervisor, could be considered as workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?*
- (2) *If the answer to issue No. (1) above is in the affirmative then, whether the action of the management of M/s FDC Limited, Verna Industrial Estate, Verna, Salcete-Goa, in terminating the services of Shri Sanjeeb Kumar Rout, with effect from 22-08-2015 is legal and justified?*
- (3) *If the answer to issue No. (2) above is in the negative, then, what relief the workman is entitled to?"*

2. Upon receipt of the reference, it was registered as IT/33/16 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a Claim Statement at Exhibit 6 and Party II filed a Written Statement at Exhibit 7.

3. In short, the case of the Party I is that he was employed with Party II at its factory at Verna in Maintenance department by order dated 7-9-2006 with salary of Rs. 6000/- per month. The management however did not allow him to resume his duties w.e.f. 22-8-2015 and as such he raised an industrial dispute before the Dy. Labour Commissioner, Margao, but the management took a rigid and adamant stand and did not resolve the dispute and as such failure report was recorded and the reference has been made by the appropriate Government. The refusal of employment by the management is illegal and bad in law.

4. In the Written statement, the Party II claimed that the Party I was merely doing the work of administrative and supervisory nature and therefore is not a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947. The services of Party I was not upto the expectation of the management and therefore he was terminated as per Clause 3 of the appointment letter. There is no violation of principles of natural justice and the party I is not entitled for any reliefs.

5. In the rejoinder at Exhibit 8, Party I denied the case of the Party II reflected in the written statement.

6. In the course of proceedings, the parties arrived at an amicable settlement and filed consent terms dated 26-03-2018 at Exh. 17 colly along with a receipt towards full and final settlement of all the claims.

7. The consent terms are reproduced here-in-below:

- 1) It is agreed by the management of the Party II that they shall pay a sum of Rs. 5,00,000/- (Rupees five lakhs only) in full and final settlement of all claims of Party I Shri Sanjeeb Kumar Rout concerned in reference IT/33/16 arising out of his employment including the claims made in the present Reference.
- 2) The Party I shall accept the amount of money mentioned in clause No. 1 in full and final settlement of his all claims arising out of his employment including the claims in the present Reference i.e. IT/33/16. The amount mentioned in clause No. 1 includes all the claims inclusive of Gratuity, Bonus, Leave Encashment, LTA, Medical, Salary, Subsistence Allowance, Ex-gratia, etc. and the Party I further confirm that he shall have no claims of whatsoever nature against the company, even any claims which can be computed in terms of money including any claim of reinstatement or re-employment or any other claims whatsoever with the company and undertake that he shall not raise any dispute of whatsoever nature against the Company in respect of the subject matter of his employment with the Party I.

8. The above consent terms are signed by the Party I workman, Shri Sanjeeb Kumar Rout along with his Adv. Shri Suhaas Naik, so also Shri Jagdish Vasta, Manager-HR and Adv. Shri M. S. Bhandodkar on behalf of Party II. I have gone through the consent terms filed as above, which in my view, are just and fair and in the interest of both the Workman/Party I as well as Employer/Party II and hence, the same are accepted.

9. In view of above, I pass the following:

ORDER

- i. The reference at the instance of Party I Workman, stands disposed of in view of the consent terms filed by both the parties at Exhibit 17 coll.
- ii. No order as to costs.
- iii. Inform the Government accordingly.

Sd/-
(Vincent D'Silva),
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/3/2018-Lab/Part-I/284

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 22-03-2018 in reference No. IT/65/92 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shivanee S. Borkar, Under Secretary (Labour)
(Link).

Porvorim, 25th April, 2018.

IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT GOVERNMENT OF GOA AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding
Officer)

Ref. No. IT/65/92

Workman,
Rep. by the Goa Trade & Commercial,
Workers Union, Velhos' Building,
Panaji-Goa. ... Workman/Party I
V/s

M/s. U.P. State Bridge Corporation Ltd.,
New Mandovi Bridge Site,
Patto, Panaji-Goa. Employer/Party II

Workmen/Party I represented by Shri Subhash Naik Jorge.

Workmen/Party II represented by Ld. Adv. Shri A. V. Nigalye.

AWARD

**(Delivered on this the 22nd day of the month
of March of the year 2018)**

By Order dated 21-10-1992, bearing No. 28/39/92-LAB, the Government of Goa in exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

“(1) Whether the action of the management of M/s. U. P. State Bridge Corporation Ltd., Panaji, in terminating the services of S/Shri Yogendra Nath Yadav, Sher Singh, Mohan P, Rohtas and Devi Prasad with effect from 14th May, 1992 is legal and justified?

(2) If not, to what relief the workmen are entitled?"

2. It is a matter of record that vide Order No. 28/39/92-LAB dated 8-12-1992, the appropriate Government amended the schedule of reference, as follows:

In the schedule appended to the said Order, for the words 'and Devi Prasad', the figure and words 'Devi Prasad and Gulabchandra Verma' shall be substituted.

3. Upon receipt of the reference, IT/65/92 was registered. Notices were issued to both the parties under registered post, upon which both the parties were served. The Party I thereafter filed a Claim statement at Exh. 3 and the Party II filed Written statement at Exh. 5.

4. In short, the case of the Party I is that the Party II is a company engaged in the business of construction of bridges, roads, etc. all over India and abroad. The Party II besides the project of constructing the new Mandovi Bridge at Panaji has also two other projects in Goa and to carry on the activities, the Party II engaged a large number of workers categorized into A, B and C categories. All the workmen are initially appointed in category C and after continuous service of three years, they are absorbed in category B on the basis of seniority. The Party II undertook work of constructing new Mandovi Bridge in the year 1997 on behalf of Government of Goa and engaged the services of workmen who were mostly brought to Goa from other establishments of Party II. Most of the workmen were recruited from U.P., Bihar, etc. and some from Goa and they were told that their services would be regularized from the category C to B after they put in a minimum continuous service of three years. The daily wages offered to the workmen ranged from Rs. 14.50 per day to Rs. 18 per day depending upon the category of work they performed for category C initially and thereafter it was revised from Rs. 16 per day to Rs. 20 per day in the year 1989. The daily wages were also revised from November, 1991 ranging from Rs. 25 per day to Rs. 35 per day.

5. It is also claimed by Party I that the services of 7 workmen were regularized from C category to B category working at new Mandovi site after they completed three years of service. However, the other eligible workers in C category were not regularized and were paid very low wages inspite of their oral representation. The action of Party II in refusing to regularize their services was a big disappointment. The Party II thereafter issued a

notice stating that 19 workmen in category C would be removed by way of retrenchment. The category C workmen became members of Goa Trade and Commercial Workers Union in October, 1991 and took up the issue of proposed termination of 19 workmen in C category with Party II and thereafter served a strike notice and immediately thereafter the Party II withdrew the notice and did not go ahead with proposed termination. The Union took up various issues of the workmen after workmen in category C became their members and served a strike notice on Party II listing out various issues and grievances of the workmen.

6. The Labour Commissioner intervened in the matter with respect to demand that the muter roll workers i.e. category C workers be paid on the basis of 'Equal Pay for Equal Work' as well as regularization of category C workers and thereafter, a settlement was arrived at on some of the demands raised by the Union. The Party II instead of making payments of arrears terminated the service of 6 workmen belonging to C category viz. Yogendra Nath Yadav, Sher Singh, Mohan P., Rohtas, Devi Prasad and Gulabchandra Verma without following the provisions of Standing Orders and in violation of principles of natural justice w.e.f. 14-05-1992. The said workers had put in continuous service of 240 days and as such their services could not have been terminated without complying with the legal provisions of Section 25-F and 25-G of the Act. The termination of the workmen were malafide, vindictive and by way of victimization for trade union activities, besides being illegal and unjustified. Hence, the reference.

7. In the written statement, the Party II has contended that the company appointed Project Manager for Party II for the construction of new Mandovi Bridge at Panaji and the Project Manager engaged C category workmen including the workmen in reference in accordance with Certified Standing Orders of the Company. The workmen are of temporary/casual nature employed for specific period and on completion of the project, the workmen in C category stood automatically relieved from the services. The termination of the services of the said workmen was on account of the fact that the said workmen jointly filed a threatening letter to the General Manager and approached the place where concreting was to commence and provoked and instigated other workmen with an ulterior motive by interfering in the concreting work and inspite of peaceful efforts on the part of Party II, the Party I workmen continued squatting near the concreting place, creating hindrance in the work and stopped the work and pressurized

other workmen to leave the place of work thereby entire work came to a jolting halt. The deck concreting work was to commence from 12-5-1992 and was crucial for the bridge safety and once concreting commence, it has to be completed nonstop, failing which it may create technical problem for bridge as well as endanger safety of the workers, causing loss of life and property.

8. The Party II further claimed that the said omission/commission on the part of the workmen was viewed seriously as it was not only unjustified but also illegal and gross misconduct as per the Standing Orders. The Police had to move for removing the workmen from the place of incident apprehending serious law and order situation. The said workmen were in no way concerned or responsible for the deck concreting work but with an ulterior motive to cause indiscipline posed a serious problem for the safety of public sabotaging the concreting work which was commenced at about 4.00 p.m. on 12-5-1992 and delayed till 9.30 p.m. The Party II ordered a spot enquiry as it was not possible to conduct a departmental enquiry. The action of Party I in dismissing the six workmen was fully justified in the given situation and bonafide as well. The above acts of serious misconducts on the part of six workmen were viewed very seriously and continuing the said workmen in the services was not in the interest of public property, safety and discipline in the organization and therefore decided to summarily remove them from the services with effect from 14-5-1992.

9. In the rejoinder at Exh. 6, the Party I has denied the case set up by the Party II in the written statement.

10. Issues that came to be framed at Exh. 7 are as follows;

- (1) Whether the Party I proves that the termination of the services of the six workmen named in the reference by Party II is in violation of the provisions of the Standing Orders and the Principles of natural justice?
- (2) Whether the Party I proves that the Party II did not comply with the mandatory provisions of Section 25-F and 25-G of the Industrial Disputes Act, 1947 before termination of the services of the six workmen named in the reference and, therefore, the termination is illegal?
- (3) Whether the Party I proves that Party II did not obtain prior permission for termination of the services of six workmen named in

the reference as required under Section 33 of the Industrial Disputes Act, 1947 and therefore the termination is illegal?

- (4) Whether the Party I proves that the termination of the services of the six workmen named in the reference by the Management of Party II w.e.f. 14-5-1992 is illegal and unjustified?
- (5) Whether Party II proves that the services of the six workmen named in the reference were terminated after holding preliminary enquiry and finding them guilty of acts of serious misconduct?
- (6) Whether Party I is entitled to any relief?
- (7) What Award or order?

11. It is a matter of record that an additional issue was framed on 4-10-2011 at Exh. 23 in place of issue No. 5. It is as follows:

- 5(A) Whether the Party II proves that the misconduct alleged against the workmen is proved to the satisfaction of the Tribunal.

12. In the course of evidence, the Party I examined Shri Yogendranath Singh Yadav as witness No. 1 and Shri Subhash Naik Jorge as second witness. On the other hand, the Party II examined Ms. Girija Shankar Srivastava, Shri Harendra Kumar, Shri A. K. Srivastava and Jitendra Pant as their witnesses. Shri Harendra Kumar produced on record a copy of letter dated 14-5-1992 along with enquiry report at Exh. E-1 colly, a copy of notice dated 14-5-1992 at Exh. E-2, a copy of letter dated 10-03-1992 along with Notification at Exh. E-3 colly.

13. Heard arguments. Notes of Written arguments came to be placed on record by Party I as well as Party II.

14. I have gone through the records of the case and have duly considered the arguments advanced. My answers to the above issues are as follows:

Issue No. 1	...	In the Affirmative.
Issue No. 2	...	In the Affirmative.
Issue No. 3	...	In the Negative.
Issue No. 4	...	In the Affirmative
Issue No. 5	...	Deleted.
Issue No. 6	...	As per Final order.
Issue No. 7	...	As per Final order.

ADDITIONAL ISSUE

Issue No. 5(A)	...	In the Affirmative.
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REASONS

Issue No. 5a:

15. *Ld. Adv. Shri A. V. Nigalye* for Party II has submitted that the evidence on record produced by Party II to prove the above issue is beyond doubt as Party II has examined four witnesses who have described the incident in detail as the said workmen had obstructed the deck concreting work of the bridge and instigated other workers to do so as a result of which, the commencement of work was delayed and the work could start only after the workmen were arrested by the Police. The witnesses examined by the Party II, namely the Assistant Engineer posted at the site, *Shri Girija Shankar Srivastava*, the person who was looking after the maintenance of machine, *Shri Harendra Kumar*, *Shri A. K. Srivastava* who produced the Notification of Government of Goa declaring the said area as prohibited area and the Project Manager, *Shri Jitendra Kumar Pant*, who stated that the work of concreting was delayed because of obstruction by workmen, clearly show that the concreting of deck was obstructed by Party I workmen and did not allow to start. *Ld. Adv. Shri Nigalye* further submitted that the misconduct committed by the workers was very serious in terms of Clause 3, 12 and 20 of the Certified Standing Orders. The said workmen were the leaders of the workers who stopped the work of the project. *Shri Yogendranath* has admitted that he was arrested by Police and therefore the Party II has proved the issue.

16. Admittedly, the burden to prove the above issue is on Party II. The Party II has examined *Shri Girija Shankar Srivastava*, Assistant Engineer posted at the site, who stated that he was supervising the area and about 60 to 70 workers were working under him and the workmen under reference were working in the mechanical section and when the superstructure deck work was being carried out on 12-5-1992 which involved the work of concreting which was to be started at 2.00 p.m., the said workmen who were not required in the said work of concreting, came and stopped the work and the said concreting work was delayed because the said persons obstructed the mixing work. The PWD people tried to convince the Party I workmen, however they did not listen and ultimately the Police came and arrested the Party I workmen and other workmen at around 8.30 p.m. The said witness has not been shaken in the cross examination. There is no evidence that the witness was in inimical terms with Party I workmen. The witness, *Shri Harendra Kumar* who was in-charge

of maintenance of machines has also stated that Party I workmen came and obstructed the work inspite of Engineers of PWD telling them not to obstruct the said work and subsequently, the Police arrived and took away the workers. He also stated that the concreting work could not be started because of obstruction of the work by the said workers.

17. Needless to mention, the enquiry report dated 14-5-1992 at Exh. E-1 colly produced by *Shri Harendra Kumar* also shows that the Party I workmen were involved in the said incident. The said report reveals that the Party I workers were the leaders of obstructing workers and they were instigating the other workers although the said workers were allotted duty towards Panaji side, while the work of concreting was toward Porvorim side. *Shri Harendra* has also not been shaken in the cross examination with respect to obstruction of the concreting work by the Party I workmen. *Shri A. K. Srivastava* has produced on record the Notification dated 10-5-1992 of the Chief Engineer, PWD, Government of Goa addressed to Project Manager of Party II at Exh. E-3 colly which shows that the said area was declared as prohibited area under Official Secrets Act, 1993 and in view of the said Notification, no person could enter the said area without authorization, which also is indication of the fact the presence of Party I workmen at the site was unwarranted. *Shri Jitendra Kumar Pant*, Project Manager at the relevant time has also stated that the Party I workmen entered the prohibited area and obstructed the work of concreting. He claimed that the work of concreting was delayed because of obstruction by workers led by Party I workmen and that Police were called and arrested the workers, which fact is not in dispute.

18. The evidence of Party I clearly shows that there was obstruction of work of concreting of deck being carried out in prohibited area led by the Party I workmen and inspite of request by the PWD Officials, the workers did not allow the said work, which could be started only after police came and arrested the workmen at 9.30 p.m. *Shri Yogendranath Yadav* who has been examined by Party I workmen has admitted in the cross examination that he had no connection with the deck slab concreting work which was going on at new Mandovi site and that he was arrested by the Police. Importantly, the incident of obstruction took place in the prohibited area as per Notification at Exh. E-3 colly. There is no dispute that the workers led by Party I workmen left their place of work and pressurized other workmen to leave their place of

work and stopped the concreting work by entering into the prohibited area. The Party I workmen therefore committed misconduct in terms of Certified Standing Orders at Exh. 31. The contention of Shri Subhash Naik Jorge that the Party I has failed to prove the incident therefore cannot be believed. The Party I therefore has proved the issue No. 5A in the affirmative.

Issue Nos. 1, 2 and 4:

19. It is the case of Party I that the termination of services of six workmen named in the reference is illegal and unjustified and in violation of provisions of Standing Orders and principles of natural justice and that the Party II did not comply with the mandatory provisions of Section 25-F and 25-G of the Act. Shri Subhash Naik Jorge for Party I has submitted that admittedly no enquiry was held against the workmen under Standing Orders in keeping with the principles of natural justice nor the Party I paid legal dues under Section 25-F of the Industrial Disputes Act. The services of the workmen were terminated summarily without issue of charge sheet and holding an enquiry, which is not permitted in law and therefore, the termination of Party I workmen ought to be set aside and in support of his contention, he relied upon the case of **D. K. Yadav vs. J. M. A. Industries Ltd., 1993 SCC (L&S) 723**.

20. Per contra, Ld. Adv. Shri A. V. Nigalye for Party II has submitted that the termination of services of Party I is for misconduct and not by way of retrenchment. The provision of Section 25-F of the Industrial Disputes Act, which deals with retrenchment of workmen and condition precedent for valid retrenchment are not applicable to the present case since it is the case of termination for misconduct and not of retrenchment. Ld. Adv. Shri Nigalye has further submitted that the materials produced on record by the management clearly prove that the termination of services is for misconduct, which is of very serious nature. According to him, it is well settled that where the termination is for serious misconduct, the action of the employer for dismissal of workmen is perfectly legal and the Courts would not be justified in interfering with the same.

21. Admittedly, no enquiry was held as required under Certified Standing Orders of the Company produced at Exh. 31 in accordance with the principles of natural justice. There is no dispute that the Party I workmen were engaged at the construction site of new Mandovi Bridge, Panaji. The Party I examined Shri Yogendranath Singh

Yadav. He has stated that the Party II had undertaken the projects in Goa for construction of Mandovi Bridge and other bridges. The workers who were working at Mandovi Bridge were brought from various parts of India and in Goa and that there were about 81 workers in category C who were the members of Goa Trade & Commercial Workers Union and that they submitted Charter of demands to Party II. The Party I workmen were the executive committee members of category C workers and he was the President of the Committee and that their services were terminated and before termination, no prior notice was given nor any retrenchment compensation was paid to them. No charge sheet or memo was ever issued to them by Party II, although they continuously worked without any break till the date of termination of their services.

22. There is no dispute that there was no show cause or charge sheet issued to the Party I workmen nor any enquiry held. The witness of the management, Shri Girija Shankar Srivastava, has admitted in cross examination that the Party I workmen were not given one month prior notice nor they were paid any retrenchment compensation. He also admitted that the said six workmen were not issued any charge sheet and that no enquiry was held by appointing an Enquiry officer. He also admitted that all the workmen were working in category C and prior to termination on 14-05-1992, they had completed one year service. The second witness, Shri Harendra Kumar, has also admitted that all the workers were working at the Mandovi Bridge site prior to his transfer to Goa in 1991. He however feigned ignorance as to whether Party I were given one month notice in writing prior to termination or whether the Party I workmen were paid retrenchment compensation. Shri A. K. Srivastava, however has stated that the enquiry was conducted by Shri G. S. Srivastava and Harendra Kumar but he did not know the result of the enquiry nor was he aware whether one month notice was given to the said workmen prior to their termination or whether any retrenchment compensation or wages in lieu of one month notice was paid to the workmen at the time of termination of their services.

23. Shri Jitendra Kumar Pant examined by the management has stated that no memo or charge sheet was issued to the six workmen because they were not available. He stated that the report of enquiry was submitted to him in writing which they were enquiring into charges of misconduct, obstructing the work, instigating the other workers to obstruct the work. He however admitted that

show cause notice was not given to the said workmen before terminating their services as they were not available. He, however claimed that Party I workmen were issued charge sheet for having committed misconduct but he was unable to produce the records of enquiry proceedings and the finding of enquiry officer as the records are old. He claimed that he does not remember whether Party I workmen had participated in the enquiry held against them. He however denied the suggestion that no charge sheet was issued to any of the workmen and that no enquiry was conducted by Assistant Engineer, Srivastava and Harendra Kumar against Party I workmen.

24. The evidence on record therefore clearly indicate that no departmental enquiry into the misconduct was conducted by Party II in terms of the Certified Standing Orders nor any records produced of the said departmental enquiry nor any show cause notice or charge sheet issued to Party I workmen nor they were paid their legal dues before termination as admitted by Shri Girija Shankar Srivastava that the Party I workmen were not given one month prior notice nor they were paid any retrenchment compensation nor the said six workmen were issued any charge sheet and that no enquiry was held against them by appointing an Enquiry officer. The Enquiry report produced by Harendra Kumar at Exh. E-1 colly was conducted without giving opportunity to Party I workmen of putting their case forward or upon hearing them. It is well settled in the case of *D. K. Yadav*, supra relied upon by Party I workmen that no man should be condemned unheard in order to prevent authority from acting arbitrarily affecting the rights of the person concerned and that no decision must be taken which will affect the right of any person without his/her being informed of the case and giving him/her an opportunity of putting forward his/her case as an order involving civil consequences must be made consistently with the rules of natural justice and fair play.

25. It is also held in the case of **Mahinder Singh Gill vs. Chief Election Commissioner, (1978) 1 SCC 405** that the duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action. Even executive authorities which take administrative action involving any deprivation of or restriction on inherent fundamental rights of citizens, must take care to see that justice is not only done but manifestly appears to be done. They have a duty to proceed in a way which is free from even the appearance of arbitrariness,

unreasonableness or unfairness and that they have to act in a manner which is patently impartial and meets the requirements of natural justice. The procedure prescribed must be just, fair and reasonable even though there is no specific provision in a statute or rules made thereunder for showing cause against action proposed to be taken against an individual, which affects the right of that individual.

26. The Hon'ble Apex Court in the case of **Anoop Sharma vs. Executive Engineer, Public Health Division No. 1, 2010 II CLR 1**, has also observed in Para 13 that no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25-F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of notice. Clause (b) casts a duty upon the employer to pay to the workman 'at the time of retrenchment', compensation equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months and that Section 25-F (a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of the employee nullity.

27. There is no dispute that the Party I workmen were executive committee members and were employed with Party II who have been in continuous service for over 4-5 years under the said management of Party II. There is also no dispute that the Party II terminated the services of Party I workmen without giving them one month notice in writing indicating the reason for retrenchment or paying them wages in lieu of notice or paying the compensation at the time of the retrenchment, infact no termination order was issued to them and they were summarily dismissed from service without assigning any reason by merely affixing a notice of termination on the notice board. Shri G. S. Srivastava has admitted that services of the workmen were not retrenched but they were simply terminated by displaying a notice on the notice board. The said termination as on 14-05-1992 is in stark contravention of provisions of Section 25-F of the Industrial Disputes Act thereby violating the mandatory provision of the said Act as laid down by the Hon'ble Apex Court, above.

28. The witnesses examined on behalf of Party II have admitted that no legal dues have been paid nor any enquiry has been held. The Party II has not complied with the above provisions of law. The said provision is mandatory and that any violation thereof renders the termination of services of the workman illegal per se, ab initio void and non-est rendering the action of the employer as nullity. Needless to reiterate, there is no violation of Section 25-G of the Act nor there is any evidence that the Party I belonged to a particular category of workmen in that establishment and that they have been retrenched from services by keeping the last person in the employment in that category. The contention of Ld. Adv. Shri A. V. Nigalye as stated above therefore cannot be accepted. The Party I having proved that the termination of the services of the six workmen named in the reference by Party II is in violation of provision of Standing Orders and principles of natural justice and that they have not complied with mandatory provisions of Section 25-F of the Act, the said termination of the workers named in the reference w.e.f. 14-05-1992 is illegal and unjustified. It is therefore issues No. 1, 2 and 4 are answered in the affirmative.

Issue No. 3:

29. Shri Subhash Naik Jorge has submitted that the Party I workmen do not press for any findings on issue No. 3 as no evidence has been led in support of said issue. It is therefore, issue No. 3 is answered in the negative.

Issue Nos. 6 & 7:

30. Shri Subhash Naik Jorge for the Party I has submitted that the Party II has contravened the provisions of Section 25-F of the Industrial Disputes Act before terminating the services of Party I workmen and that the Party I workmen are unemployed since the date of termination as claimed by Yogendranath Yadav and Party II has not seriously rebutted the same. Shri Subhash Naik Jorge has further submitted that the termination of six workmen is illegal and unjustified and therefore they are entitled for reinstatement in service with full back wages along with continuity in service and costs. He submitted that the provisions of Section 25-F have not been complied with before termination nor any enquiry held as required under Standing Orders of the Company and therefore, the termination of the six workmen is illegal and unjustified and hence, the Party I workmen are entitled for the relief claimed. In support of his contention, he relied upon the case of **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidhyalaya (D.ED) & Ors., (2013) 10 SCC 324.**

31. Per contra, Ld. Adv. Shri A. V. Nigalye for Party II has submitted that the action of Party II is just and proper and commensurate to the misconduct and since the misconduct is of serious nature, the termination of services of workmen is perfectly legal and justified and the Tribunal should not interfere with the action of Party II. He further submitted that the workers were project employees and that their tenure would have come to an end on completion of the project. The construction of project of New Mandovi Bridge was also completed on 21-07-1992. Hence, the relief of re-instatement is not available for the said workers. It is also an admitted fact that all six workmen were daily rated workers. Such workers have no right of reinstatement in service, as held by the Hon'ble Apex Court in a number of cases. In support of his contention, he relied upon the cases of (i) **Madhya Pradesh Administration vs. Tribhuban, (2007) 9 Supreme Court Cases 748;** (ii) **Kendriya Vidyalaya Sangathan and another vs. S. C. Sharma, (2005) 2 SCC 363;** (iii) **U.P. State Brassware Corpn. Ltd. and another vs. Uday Narain Pandey, (2006) 1 SCC 479;** (iv) **Mahendra K. Raut vs. Gopalanand Rasayan, 2014 II CLR 362** and (v) **In-charge Officer and another vs. Shankar Shetty, (2010) 9 SCC 126.**

32. It requires a mention here that although the Party II has proved the misconduct against Party I workmen, the punishment awarded against the Party I workmen is highly disproportionate to the charges proved. There is no dispute that the Party I workmen obstructed the work of concreting of span 13 of the new Mandovi Bridge for a period of 6 hours from 2.30 p.m. to 8.30 p.m. till they were arrested by the Police, however there is no evidence on record that the act of Party I workmen in obstructing the work created any technical snag for the bridge or endangered the safety of the structure or caused any loss of life and property, on the contrary, the said work was peacefully and perfectly carried out, after the arrest of Party I workmen. No doubt, the Party I and others have obstructed the work while raising their demands, which act is most reprehensible, however it does not invite severe punishment of dismissal without holding any enquiry by affording principles of natural justice and payment of legal dues in terms of Section 25-F of the Industrial Disputes Act. The Party II although proved the misconduct, the punishment of dismissal without holding enquiry and payment of legal dues is highly disproportionate to the gravity of misconduct proved.

33. The question therefore is what reliefs the Party I is entitled to, once it is held that the discharge/termination is illegal, whether the Party I is entitled for reinstatement with full back wages and continuity in service with consequential benefits attached to the post or adequate monetary compensation in lieu of reinstatement and back wages.

34. It has been consistently held by the Hon'ble Apex Court that relief by way of reinstatement with back wages is not automatic, even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such a nature may be appropriate. It is also well settled that the Court in appropriate cases grant compensation in lieu of reinstatement keeping in view the length of service rendered by a workman, the wages that he was receiving during that period, which would meet the ends of justice. In the instant case, the Party I workmen were working for the Party II in category C who are mainly muster roll daily rated workmen and have put in about 4-5 years of service as revealed from para 6 of the written statement and were terminated by notice dated 14-05-1992 displayed on the notice board of Party II. The evidence on record show that the Party I workmen were terminated for their misconduct of obstructing the concreting work which fact has been proved and that the said termination had taken place about 25 years ago. None of the parties have produced the letters of appointment nor are their ages on record. There is no dispute that the Party I workman were muster roll daily rated workmen and therefore, are not entitled to reinstatement in service at this distance of time as held in the case of **Santosh Shirodkar vs. Sanquelim Municipal Council, through its Chief Officer, (2017) 0 Supreme (Mah) 1579**.

35. There are also no pleadings that Party I workmen have not been employed after they were terminated nor Shri Yogendranath Yadav has stated what efforts he and other workmen have made for securing gainful employment and how he and other workmen and their families sustain themselves. There is no dispute that the Party I workmen were summarily terminated without paying any legal dues. There is nothing on record as to what was the last drawn wages the Party I workmen were drawing at the time of termination. The Party I however has claimed in para 18 of the claim statement that the daily wages paid to Category C workmen in the year 1989 are ranging from Rs. 16 to Rs. 20 per day, thereafter it was revised in the year 1991 with retrospective effect and the revised

daily wages are ranging from Rs. 25 to Rs. 35 per day, while it is the case of the Party II that the daily rates of wages of workmen in C category were revised w.e.f. 1-11-1991 in terms of settlement. However, the rates of wages mentioned in Para 18 of the claim statement has not been denied by Party II.

36. Therefore, considering that the Party I workmen had put in services of about 4-5 years on the date of termination and that the Party I workmen were earning around Rs. 30 per day i.e. 780 for 26 days of the month considering that they are daily rated workers, would translate into salary of Rs. 9360 per annum and making a reasonable allowance for appropriate escalation, an average salary of Rs. 10,000 per annum can be reckoned for the purposes of arriving at the amount of compensation, which would be around Rs. 2,50,000/- (Rupees Two lakhs fifty thousand only) representing wages for about 25 years and considering that the Party II has violated provisions of Section 25-F of the Act, so also the nature of appointment, the length of service and the time taken to settle the dispute, ends of justice would be met, if the Party I workmen are paid a lumpsum monetary compensation of Rs. 2,50,000/- (Rupees Two lakhs fifty thousand only) for each workman, which would be just, proper and equitable in the facts and circumstances of the case. Hence, the above issues are answered accordingly.

37. In the result, I pass the following:

ORDER

- i. The present reference stands partly allowed.
- ii. It is hereby held that the action of the management of M/s. U. P. State Bridge Corporation Ltd. Panaji, in terminating the services of S/Shri Yogendra Nath Yadav, Sher Singh, Mohan P, Rohtas, Devi Prasad and Gulabchandra Verma with effect from 14th May, 1992 is illegal and unjustified.
- iii. The Party II is directed to pay monetary compensation of Rs. 2,50,000/- (Rupees Two lakhs fifty thousand only) for each workman within 60 days of the publication of the Award, failing which the Party II shall pay an interest @ 9% per annum.
- iv. Inform the Government accordingly.

Sd/-

(Vincent D'Silva),
Presiding Officer,
Industrial Tribunal and
Labour Court.

Notification

No. 28/3/2018-LAB/Part-I/282

The following award passed by the Labour Court-II, at Panaji-Goa on 21-02-2018 in reference No. IT/50/12 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shivane S. Borkar, Under Secretary (Labour)
(Link).

Porvorim, 25th April, 2018.

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IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Suresh N. Narulkar, Hon'ble Presiding
Officer)

Case No. IT/50/12

Shri Narayan Dalai,
Rep. by Goa Trade and
Commercial Workers Union,
Panaji-Goa. Workman/Party-I
V/s

M/s. Country Club de Goa,
836/1, Soranto Vaddo, Anjuna
Bardez-Goa. Employer/Party-II

Workman/Party-I remained absent.

Employer/Party-II represented by Adv. Shri R.
Noronha.

Panaji, Dated: 21-02-2018

AWARD

1. In exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa, by Order dated 21-06-2012, bearing No. 28/56/2011-LAB/326, referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Government of Goa, by its another order No. 28/02/2011-LAB/86 dated 09-02-2016, transferred the present dispute from Industrial Tribunal, Panaji, Goa to this Labour Court II, Panaji-Goa.

1. *"Whether the contention of the union that Shri Narayan Dalai, Cook has been refused employment by the management of M/s. Country Club de Goa, Anjuna, Bardez, Goa, with effect from 01-04-2011, is legal and justified?"*

1. *If not, to what relief the Workman is entitled?"*

2. On receipt of the reference, a case was registered under No. IT/50/2012 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the parties appeared. The claim statement has been filed by the Goa Trade Commercial Workers Union (for short 'the union') on behalf of the Workman/Party-I (for short 'Workman'), on 05-09-2012 at Exb. 5. The facts of the case in brief as pleaded by the union are that the Workman was appointed as a 'Cook-Comi-III Indian' in the food and beverages department of the Employer/Party II (for short, 'Employer') situated at Sorantowado, Anjuna, Bardez, Goa. The union stated that the Employer is a hotel/resorts which caters to the needs of Indian tourists as well as foreign tourists by providing them room facilities, restaurant facilities, housekeeping, gymnasium, swimming pool etc. after charging certain tariff from these visiting tourists/customers. The union stated that the Employer employed more than 53 permanent workmen at its aforesaid hotel. The union stated that all the workmen of the Employer unionized themselves under the banner of Goa Trade and Commercial Workers Union (AITUC) and the said fact of unionization was informed to the Employer. The union stated that ever since its unionization, the union has espoused the cause of these workmen before every competent forum and authorities. The union stated that soon after the unionization, the management of the Employer started harassing and victimizing the unionized workmen by adopting various illegal and unfair labour practices. The union stated that it has filed a detailed complaint of unfair labour practices vide their letter dated 31-03-2011 before the office of Labour Commissioner, Panaji, Goa. The union stated that after resuming new Resort Manager, he informed all the unionized workmen to resign from its union membership. The Union stated that the workmen has however, refused to concede to the demand of the Resort Manager and did not resign from its membership.

3. The union stated that on 01-04-2011, when the Workman reported for his normal duty at the Employer hotel at 7.00 a.m., the Resort Manager, Mr. Nirmal Biswas informed him not to attend the duties any further and that his services stands terminated with immediate effect. The Union stated that the said Manager also informed the security guard of the Employer not to allow the Workman to enter inside the resort. The Union stated that from the date of joining till his illegal refusal of employment, the Workman has worked continuously with clean and unblemished past

service record. The Union stated that the Workman was a permanent workman and his last drawn salary was Rs. 4000/- p.m. The Union submitted that the refusal of employment to the Workman w.e.f. 01-04-2011 is illegal, unjust and bad-in-law and smacks of malafide and malice, which is done to harass and victimize the Workman. The Union submitted that no notice or one month pay in lieu of notice or compensation of whatsoever nature was paid to the Workman. The Union submitted that the Workman is presently unemployed. The Union therefore prayed that the action of the management of the Employer in refusing employment to the Workman w.e.f. 01-04-2011 be held as illegal, unjust and bad-in-law and the Workman be reinstated back in service of the Employer hotel with full back wages and continuity in service and all other consequential benefits.

4. The Employer resisted the claim of the Workman by filing its written statement on 28-11-2012 at Exb. 6. The Employer, as and by way of its preliminary objections, submitted that the statement of claim filed on behalf of the Workman that he has been illegally refused employment by the Employer w.e.f. 01-04-2011, is false, mischievous, frivolous, ambiguous and vexatious and same is liable to be dismissed, that the Workman has approached the Hon'ble Tribunal with unclean hands by falsely stating that he has been refused employment w.e.f. 01-04-2011, that the Workman in his statement of claim has falsely tried to depict to this Hon'ble Tribunal that the Employer is a highly profit making organization which caters to the needs of Indian as well as foreign tourists, in fact, in reality it is only a hospitality styled resort falling under the clubs category especially tailor made and design to serve its esteemed guests, who are basically Indian nationals and who in order to procure the facilities provided by the Employer have to be compulsorily affiliated to its membership, that the union falsely stated that its workmen are unionized under the banner of AITUC and that since its unionization, they have been harassed and victimized by adopting various illegal and unfair labour practices, but it is a mischievous ploy to create a non-existent industrial dispute as dramatized and stage managed by the union.

5. The Employer stated that it is a division of Country Club (India) Ltd., a company registered under the Indian Companies Act, 1956, having its registered office situated at Amrutha Castle, 5-19-16, Saifabad, Opp. Secretariat, Hyderabad. The Employer stated that its unit is having 46 rooms strictly membership club category resort

comprising of a restaurant, swimming pool, a gymnasium alongwith a games room besides providing room service and housekeeping facilities. The Employer stated that its Goa club division is having 68 employees out of which 34 employees are members of the said union.

6. The Employer admitted that the Workman under reference has been employed by them in its Goa unit on 01-10-2008 in the designation of KSTD Helper-F&B production on a monthly salary of Rs. 3500/-. The Employer stated that at the time of signing the appointment letter dated 01-10-2008 and especially in Clause (2) of the appointment letter, it is clearly stated that he could be posted/ /transferred to any offices/projects division/ /department/unit in India or abroad or in any other establishment owned and managed by them/group of companies depending upon the exigencies of work. The Employer stated that after a period of above 2 years and six months its General Manager, vide their letter dated 30-03-2011, the Workman has been transferred to its Medchal unit on the same post and service conditions as there was necessity and urgent need of Comi-III at the transferred place. The Employer stated that in the said letter dated 30-03-2011, the Workman was informed that he has been relieved w.e.f. closing hours of 01-04-2011 from the Goa unit and that his name shall be put on the muster roll of its Medchal unit w.e.f. 04-04-2011. The Employer stated that the Workman was also informed that he has been granted three days special leave with pay for preparation and travel to its Medchal unit and that his bus fare for travelling and other expenses shall be reimbursed to him on actual basis immediately on reporting at its Medchal unit. The Employer stated that the Workman was also advised in the letter to report at its Medchal unit on or before 04-04-2011 at 10.00 a.m.

7. The Employer stated that on 06-04-2011 at around 11.35 a.m. the management of the Employer received a copy of a letter dated 31-03-2011 addressed to the Labour Commissioner, Panaji, Goa, by the union on the subject of illegal refusal of employment to the Workman under reference working in F & B Production as Cook-Comi-III by its management w.e.f. 01-04-2011, calling upon the office of the Labour Commissioner to immediately take cognizance of the present industrial dispute and to instruct the management of the Employer to allow the Workman to resume his normal duties with immediate effect as the Workman is ready and willing to resume his duties unconditionally. The Employer stated that the said letter has been

prepared with most malafide intention by the President of the union to the Labour Commissioner only to dramatized and create a non-existent industrial dispute, which in reality never existed at all and that too at the behest of the Workman who has simply refuse to abide and follow the directions issued to him in writing by the Employer. The Employer stated that the union has made certain allegations, which are incorporated in its letter dated 31-03-2011 addressed to the office of the Labour Commissioner in a rather hasty, reckless and lethargic manner so as make it look apparent that the Workman who has been transferred in accordance with its practice and policy has been refused employment is otherwise totally false and absurd. The Employer stated that not even a single occasion the Workman or its union has come before the Employer or its Resort Manager and have brought to their notice of any of its grievances/objections with respect to the issue of transfer of the Workman. The Employer stated that the transfer of the Workman has been maliciously and erroneously interpreted as refusal of employment so as to show case that there exist an industrial dispute between the Workman and the Employer herein above. The Employer stated that the Asstt. Labour Commissioner, Mr. Rupesh Kothambikar, directed the Employer to maintain status quo as the dispute has been admitted in conciliation. The Employer submitted that the Ld. Asstt. Labour Commissioner and Conciliation Officer, Mr. Rupesh Kothambikar has acted in haste and in total abuse of the powers vested upon him under the I.D. Act, 1947 and has gone a step ahead and admitted the said dispute of alleged refusal of employment without giving them a fair and proper opportunity of being heard on the subject of alleged refusal of employment to the Workman, thereby not following the principles of natural justice. The Employer stated that on 07-04-2011, it intimated the Workman to report to duties immediately on receipt of the said letter as he had wilfully remained absent from duty without permission, sanction of leave or even information w.e.f. 01-04-2011 to till date. The Employer stated that the Workman received the aforesaid letter on 09-04-2011, however, despite the receipt of the said letter, the Workman for reasons best known to him has failed to report for his work at its unit at Medchal. The Employer stated that the conciliation proceedings held before the Asstt. Labour Commissioner and Conciliation Officer ended in failure as both the parties stuck up to their own stand resulting in no possibility of an amicable settlement between them. The Employer denied the overall case of the Workman as pleaded by him and prayed for dismissal of the present reference.

8. Thereafter, the workman filed his rejoinder on 07-01-2013 at Exb. 08. The workman, by way of his rejoinder, denied each and every statement, averments and submissions made by the Employer in its written statements which are contrary and inconsistent to the statements, averments and a submission made in his statement of claim and reiterates his case as pleaded in his statement of claim.

9. Based on the pleadings filed by the parties hereinabove, the Hon'ble Industrial Tribunal-cum-Labour Court framed the following issues on 23-08-2013 at Exb. 11.

1. Whether the Party I proves that the Party II refused employment to him w.e.f. 01-04-2011?
2. Whether the Party I proves that refusal of employment by the Party II is illegal, unjust, bad-in-law and is done to harass and victimize him on account of his unionization under the banner of Goa Trade and Commercial Workers Union?

3. What relief? What Award?

10. My findings to the aforesaid issues are as under:

- (a) Issue No. 1 : In the negative.
- (b) Issue No. 2 : In the negative.
- (c) Issue No. 3 : As per final order.

REASONS

11. *Issue No. 1 and 2:*

The union filed statement of claim on behalf of the Workman. The union, in its statement of claim filed in the present proceedings pleaded that the Workman has been refused the employment by the management of the Employer w.e.f. 01-04-2011 and that the said refusal of employment to the Workman is illegal, unjust, bad-in-law and smacks of malafides and malice, which is done to harass and victimize the Workman. The aforesaid pleadings made by the union on behalf of the Workman has been specifically denied by the Employer in its written statement filed in the present proceedings and pleaded that the Workman has been transferred to its Medchal unit w.e.f. 01-04-2011 and directed him to report for duties at its Medchal unit w.e.f. 04-11-2011. Thus, the burden to prove that the Workman was refused the employment and that the said refusal of employment to him is illegal, unjust and bad-in-law, is on him.

12. To prove her case, the union filed an affidavit in evidence of the Workman on 12-12-2016 in support of her statement of claim. The said affidavit

in evidence of the Workman was allowed to withdraw at the request of Ld. Adv. Shri Suhas Naik and allowed to file a fresh affidavit in evidence of the General Secretary of the union, Shri Raju Mangeshkar. On 15-12-2017, Ld. Adv. Shri Suhas Naik filed an application seeking permission to withdraw his appearance and discharging him from the appearance, which was allowed after hearing both the parties. As the General Secretary of the union, Shri Raju Mangeshkar failed to remain present for his further examination in chief as well as cross-examination by the other side, the court after giving ample opportunities to the Workman, closed the evidence. Thus, there is as good as no evidence on record on behalf of the union espousing the cause of the Workman.

13. On the contrary, the Employer examined its Asstt. Manager (Controls) Mr. Dudekula Hussaini and produced on record certain documentary evidence in support of its oral evidence. The said oral as well as documentary evidence of the Employer's witness remained unchallenged for want of cross-examination by the union. The said oral as well as documentary evidence of the Employer on record indicates that the services of the Workman is liable to be transferred to any offices/project division/department/unit in India or abroad of the Company or in other establishment owned or managed by any of our group companies depending upon the exigencies of work in terms of Clause 2 of the appointment letter issued to the Workman at Exb. 19. Further, the transfer letter dated 30-03-2011 (Exb. 20) issued to the Workman on record indicates that services of the Workman has been transferred to Medchal w.e.f. 04-04-2011 in the same post and service conditions as per Clause 2 of his appointment letter dated 01-10-2008 and that he has been relieved w.e.f. closing hours of 01-04-2011 from Goa unit and his name will be put on the muster roll of the Medchal unit w.e.f. 04-04-2011. The Workman has been granted three days special leave with pay for preparation and travel to Medchal unit. The Workman would be reimbursed bus fare for travelling and other expenses on actual basis for reporting at its Medchal unit immediately on reporting at Medchal. The aforesaid oral as well as documentary evidence on record clearly indicates that the Workman was not refused the employment by the Employer but it is the case of transfer from Goa unit to its Medchal unit on account of necessity. No evidence of whatsoever nature has been brought on record by the union on behalf of the Workman pertaining to the harassment and victimization of the Workman on account of his unionization under the Goa Trade and Commercial

Workers Union. Hence, it is held that the union failed to prove that the Employer refused employment to the Workman w.e.f. 01-04-2011 or on any other dates and as such the legality and justifiability of refusal of employment to the Workman does not arise. The union also failed to prove that the Workman was harassed and victimized by the Employer on account of his unionization under the banner of Goa Trade and Commercial Workers Union. The issue No. 1 and 2 are therefore answered in the negative.

In the circumstances, I pass the following order:

ORDER

1. It is held that the Workman Shri Narayan Dalai, Cook has been transferred from Goa unit to its Medchal unit on account of necessity.
2. It is further held that the union failed to prove that Shri Narayan Dalai, Cook has been refused employment by the management of M/s. Country Clube de Goa, Anjuna, Bardez, Goa, with effect from 01-04-2011. Therefore, the question of legality and justifiability of refusal of employment to Shri Narayan Dalai, Cook by the management of M/s. Country Clube de Goa, Anjuna, Bardez, Goa, with effect from 01-04-2011, does not arise.
3. The Workman, Shri Narayan Dalai, is therefore not entitled to any relief.
4. No order as to costs.

Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar),
Presiding Officer,
Labour Court-II.

Department of Mines

Directorate of Mines & Geology

Order

No. 01/SC-MACPS/ADM/Mines/2018/4722

Read: O.M. No. 2/7/2017/PER/746 dated 12-03-2018.

In pursuance to the Office Memorandum read at above, the Departmental Screening Committee for Group 'B' posts outside Secretariat under Directorate of Mines and Geology is hereby reconstituted for the purpose of considering the cases for grant of financial up-gradation under Modified Assured Career Progression Scheme. The

composition of Group 'B' Screening Committee is as under:

- 1) Secretary (Mines) — Chairman.
- 2) Director of Mines & Geology — Member.
- 3) Dy. Director of Mines & Geology-I — Member.

This supersedes earlier Order No. 01/219/09/ADM/Mines/1838 dated 15-08-2009.

Prasanna A. Acharya, Director & Addl. Secretary (Mines & Geology).

Panaji, 24th April, 2018.

Order

No. 01/SC-MACPS/ADM/Mines/2018/4723

Read: O.M. No. 2/7/2017/PER/746 dated 12-03-2018.

In pursuance to the Office Memorandum read at above, the Departmental Screening Committee for Group 'C' posts outside Secretariat under Directorate of Mines and Geology is hereby reconstituted for the purpose of considering the cases for grant of financial up-gradation under Modified Assured Career Progression Scheme. The composition of Group 'C' Screening Committee is as under:

- 1) Director of Mines & Geology — Chairman.
- 2) Dy. Director of Mines & Geology-I — Member.
- 3) Assistant Accounts Officer — Member.

This supersedes earlier Order No. 01/SC-MACPS/ADM/MINES/2013/3752 dated 15-12-2015.

Prasanna A. Acharya, Director & Addl. Secretary (Mines & Geology).

Panaji, 24th April, 2018.

Department of Personnel

Order

No. 22/1/2018-PER/1345

Governor of Goa on the recommendation of Goa Services Board is pleased to allot the charge of Commandant IRBn to Smt. Suman Goyal, IPS, SP (EOC) and charge of SP (Training) and Principal PTS, Valpoi to Shri Shekhar M. Prabhudessai, SP (HQ), in addition to their own duties with immediate effect, in public interest.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-II).
Porvorim, 12th April, 2018.

Order

No. 5/2/2017-PER/1332

On the recommendation of the Goa Service Board and with the approval of the Government, the transfer and posting of the following Junior Scale Officers of Goa Civil Service is ordered, with immediate effect and in public interest:-

Sr. No.	Name and present posting of the officer	Posted as
1.	Shri Deepesh Priolkar, Deputy Registrar (Admn.), RCS	Deputy Director (Admn.), Tribal Welfare.
2.	Smt. Deepti Kankonkar @ Milan Kankonkar, Deputy Director (Admn.), SDCT holding additional charge of Deputy Director (Admn.), Tribal Welfare	Deputy Director (Admn.), SDCT. She shall hold the charge of Deputy Registrar (Admn.), RCS in addition to own duties.

All the above officers shall complete their handing over and taking over process within 05 working days and submit compliance.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).
Porvorim, 24th April, 2018.

Order

No. 7/1/2018-PER/1337

Consequent upon superannuation of Dr. Dattaraj Naik Parrikar, Managing Director, Goa Meat Complex Ltd., Panaji w.e.f. 30-04-2018, Dr. Rajendra H. Prabhu Gaonkar, Deputy Director of Animal Husbandry & Veterinary Services, Panaji shall hold the charge of Managing Director, Goa Meat Complex Ltd., Panaji in addition to his own duties w.e.f. 01-05-2018.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).
Porvorim, 24th April, 2018.

Order

No. 6/13/2017-PER/1331

On the recommendation of the Goa Service Board and with the approval of the Government, the transfer and posting of the following Officers is ordered in public interest, with immediate effect:-

Sr. No.	Name and present posting of the officer	Posted as
1	2	3
1.	Shri Ravi Jha, IAS, Director (IT) holding additional charge as MD (ITG)	Director, Environment.
2.	Shri Srinet Kotwale, MD, GSIDC holding additional charge of CEO, Goa Investment Promotion & Facilitation Board	Director (IT). He shall hold the charges of MD, GSIDC; CEO, Goa Investment Promotion & Facilitation Board and MD (ITG) in addition to his own duties.
3.	Shri Anthony D'Souza, Joint Secretary (Revenue) holding additional charge of Joint Secretary (Housing)	Joint Secretary (Revenue). He shall hold the charge of Director (NRI) in addition to his own duties.
4.	Shri Shyamsundar Parab, Superintendent of Central Jail holding additional charge of Director (NRI)	Superintendent of Central Jail. He shall hold the charge of Joint Secretary (Housing) in addition to his own duties.
5.	Shri Surendra Naik, Additional Collector-II, North Goa	Additional Collector-I, South Goa.
6.	Shri Vijay Paranjape, Additional Secretary (Protocol) holding additional charge of Director, Public Grievance	Additional Secretary (Protocol). He shall hold the charges of Director, Public Grievance & Additional Secretary (ARD) in addition to his own duties.
7.	Shri Agnelo A. J. Fernandes, Additional Collector-I, South Goa	Additional Collector-II, South Goa.
8.	Shri Parag Nagarcenkar, Director, Environment	Director (Training), GIPARD.
9.	Smt. Meghana Shetgaonkar, Director (Administration), Education Department holding additional charge of Director (Training), GIPARD	Director (Administration), Education Department. She shall hold the charge of Member Secretary, Sanjay School in addition to her own duties.

All the above officers shall complete their handing over and taking over process within 05 working days and submit compliance.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).

Porvorim, 24th April, 2018.

Order

No. 6/13/2017-PER/1351

On the recommendation of the Goa Service Board and with the approval of the Government, the transfer and posting of the following Senior Scale Officers of the Goa Civil Service is ordered in public interest, with immediate effect:-

Sr. No.	Name and present posting of the officer	Posted as
1	2	3
1.	Shri Gopal A. Parsekar, Commissioner of Labour & Employment	Additional Collector-II, North-Goa.

1	2	3
2.	Shri Jayant G. Tari, Secretary, Goa Rehabilitation Board holding additional charge of Director (Admn.), Kala Academy	Commissioner of Labour & Employment. He shall hold additional charge of Secretary, Goa Rehabilitation Board & Director (Admn.), Kala Academy in addition to his own duties.

All the above officers shall complete their handing over and taking over process within 05 working days and submit compliance.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).

Porvorim, 25th April, 2018.



Department of Planning

South Goa Planning & Development Authority

Order

SGPDA/RTI-Order/176/18-19

In exercise of powers conferred by sub-sections (1) and (2) of Section 5 of the Right to Information Act, 2005 (Central Act 22 of 2005) (hereafter referred to as the "said Act") and in supersession of Order No. 21/22-1/TCP/CIR/10/448 dated 08-02-2010, published in Official Gazette, Series II No. 47 dated 18-02-2010, the South Goa Planning & Development Authority hereby designates the officers specified in column (2) and (3) of the table below as Public Information Officer and Assistant Public Information Officer, respectively, for the South Goa Planning and Development Authority, for the said Act.

TABLE

Sr. No.	Public Information Officer	Assistant Public Information Officer
1	2	3
1.	Shri Rosario Paul Gomes, Planning Assistant	Head Clerk/Official holding charge of Head Clerk.

This order shall come into force from the date of its publication in Official Gazette.

This order supersedes all earlier orders.

Sd/- Member Secretary, for and on behalf the South Goa Planning & Development Authority.

Margao, 26th April, 2018.

V. No. A-203/2018.

Mormugao Planning & Development Authority

Order

No. MPDA/RTI/2018-19

In exercise of powers conferred by sub-sections (1) and (2) of Section 5 of the Right to Information Act, 2005 (Central Act 22 of 2005) (hereinafter referred to as the "Said Act") and in supersession of Order No. 22/22-1/TCP/CIR/10/448 dated 08-02-2010, published in Official Gazette, Series II No. 47 dated 18-02-2010, the Mormugao Planning & Development Authority hereby designates the Officers specified in column (2) and (3) of the table below as Public Information Officer and Assistant Public Information Officer, respectively, for the Mormugao Planning and Development Authority, for the said Act.

TABLE

Sr. No.	Public Information Officer	Assistant Public Information Officer
1	2	3
1.	Planning Assistant	Head Clerk/Official holding charge of Head Clerk.

This order shall come into force from the date of its publication in Official Gazette.

Sd/- Member Secretary, for and on behalf of the Mormugao Planning & Development Authority.

Vasco, 27th April, 2018.

V. No. A-210/2018.

Department of Public Health

Order

No. 4/29/2017-II/PHD/1151

Read: Memorandum No. 4/29/2017-II/PHD dated 13-03-2018.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/I/5/30(3)/2017/1082 dated 21-02-2018, Government is pleased to appoint the following doctors to the post of Assistant Lecturer in the Department of Nephrology in Goa Medical College & Hospital, Bambolim-Goa on temporary basis in the Level-10 of Pay Matrix of 7th Pay Commission [Pay Band-3 Rs. 15,600-39,100+Grade Pay of Rs. 5,400/- (pre-revised)] with immediate effect and as per the terms and conditions contained in the Memorandum cited above:-

1. Dr. Joseema Cleta Colaco.
2. Dr. Amitash Ramchandra Balekar.

The above doctors shall be on probation for a period of two years.

They have been declared medically fit by the Medical Board. The appointments are made subject to the verification of their character and antecedents. In the event of any adverse remarks noticed by the Government on verification of their character and antecedents, their services shall be terminated.

The appointment is made against the vacancies occurred due to creation of 02 posts of Assistant Lecturer in the Department of Nephrology in Goa Medical College & Hospital, vide Order No. 4-11-2012-II/PHD/557 dated 13-05-2016.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 23rd April, 2018.

Order

No. 4/2/2013-II/PHD/Part VI/1198

Government is pleased to accept the resignation tendered by Dr. Hanumanthu Jagannayakulu, Professor in the Department of Cardiology, Goa Medical College & Hospital, Bambolim-Goa appointed on contract basis vide letter dated 09-04-2018 and he stands relieved from the said post w.e.f. 09-04-2018 (a.n.) by surrendering one month's pay in lieu of notice period.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 25th April, 2018.

Order

No. 2/8/2014-II/PHD/1177

Government is pleased to accept the resignation tendered by Dr. Roma Varik, Associate Professor in the Department of Paediatric Surgery, Goa Medical College & Hospital, Bambolim-Goa vide letter dated 14-03-2018 and she stands relieved from the said post w.e.f. 13-04-2018 (a.n.) on expiry of one month's notice.

By order and in the name of the Governor of Goa.

Maria Seomara De Souza, Under Secretary (Health)/link.

Porvorim, 26th April, 2018.

Certificate

No. 4/18/2002-II/PHD/Vol. 2/1206

Read: Government Order No. 4/18/2002-II/PHD/Vol. 2 dated 09-03-2018.

Certified that the character and antecedents of Dr. Celia Valanki Fernandes, Assistant Lecturer, Department of Physiology in Goa Medical College appointed vide above referred Order has been verified by the Addl. District Magistrate, South Goa District, Margao and nothing adverse has come to the notice of the Government.

Maria Seomara De Souza, Under Secretary (Health)/link.

Porvorim, 26th April, 2018.

Department of Revenue

Order

No. 35/03/02/2018-RD/847

In exercise of the powers conferred by Clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (Act 2 of 1899), as in force in the State of Goa, the Government of Goa is hereby pleased to exempt Stamp Duty payable by Matruchhaya, Ponda-Goa, towards purchase of land admeasuring 4297 sq. mts. bearing survey numbers 32/7 and 31/12 of the Village Talaulim of Ponda Taluka for a total consideration amount of ₹ 1 crore (Rupees one crore only) from Talaulikar Family, on transfer of land, by way of Deed of Sale, for the purpose of utilising the same for rahabilitation and education of under privileged children.

By order and in the name of the Governor of Goa.

Sagun R. Velip, Under Secretary (Revenue-I).

Porvorim, 26th April, 2018.

Department of Town & Country Planning

—
Order

No. 17/01/TCP/2016-17/627

Read: 1) Order No. 17/01/TC-UD/TCP/2015-16/
/4852 dated 28-11-2016.
2) Transfer Order dated 15-07-2018.

In continuation to orders read at preamble and Government approval obtained vide Note No. 17/01/TCP/2016-17/3068 dated 27-09-2017, the deputation period of Shri Prakash P. Bandodkar, Deputy Town Planner, as Member Secretary in 37B Committee, Goa Industrial Development Corporation, Panaji, is extended for period starting from 24-09-2017 till 15-03-2018.

His deputation is granted as per Rules in force.

By order and in the name of the Governor of Goa.

J. Ashok Kumar, Secretary (TCP)/HOD.

Panaji, 16th March, 2018.



Department of Water Resources

—
Order

No. 4/6/EO-WRD/2018-19/47

Read: Office Order No. 4/6-CE-EO-WRD/2013-14/49 dated 04-04-2013.

Sanction of Government is hereby conveyed for re-constitution of the Rehabilitation Committee of the Salauli Irrigation Project with immediate effect as follows:

1. Minister for Water Resources, — Chairman.
Government of Goa
2. M. L. A. Sanguem Constituency — Member.
3. M. L. A. Quepem Constituency — Member.

4. Secretary, Water Resources — Member.
5. The Chief Engineer, Water Resources Department — Member.
6. The Superintending Engineer, Circle-IV, W.R.D. — Member.
7. Executive Engineer, W.D. X, W.R.D., Pajimol, Sanguem — Member Secretary.
8. Zilla Panchayat Member, Rivona — Member.
9. Sarpanch, V. P. Curdi, Vaddem — Member.
10. Sarpanch, V. P. Uguem — Member.
11. Sarpanch, V. P. Bhati — Member.
12. Sarpanch, V. P. Malcornem — Member.
13. Shri Chandan Unandekar, Colony No.1, Vaddem — Member.
14. Shri Sunil Bhandari, Colony No. 3, Valkini, Vaddem — Member.
15. Shri Pauto Gaokar, New Vaddem, Zanodem — Member.
16. Shri Francisco Rodrigues, Colony No. 1, Vaddem — Member.

The committee will hold regular meetings at least once in three months to review the progress achieved in the rehabilitation programme of Project Affected Persons.

This order issues with the approval of Government vide No. Secy/WR/1117/F dated 16-04-2018 and is in suppression of Order No. 4/6-CE-EO-WRD/2013-14/49 dated 04-04-2013.

By order and in the name of the Governor of Goa.

S. T. Nadkarni, Chief Engineer & ex officio Additional Secretary (WRD).

Porvorim, 24th April, 2018.

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